

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, September 4, 2001

Division One

**A094552 -- The People v. Edwin Majano.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A089095 -- Napa Citizens for Honest Government et al. v. Napa County Board of Supervisors.**

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the published opinion, filed August 3, 2001 be modified as follows: (See order.) In all other respects the opinion remains the same. This modification does not effect a change in the judgment. The petition for rehearing is denied. Stein, Acting P.J. (Certified for Publication.)

Division Two

**A088907 -- The People v. Danny Quest Watson.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J. Lambden, J. (Not for Publication.)

Wednesday, September 5, 2001

Division Three

**A094074 -- In re Kevin M., a Person Coming Under the Juvenile Court Law. The People v. Kevin M.**

The disposition seems entirely appropriate. Appellant was continued on probation. Even that mild disposition was softened by placement in his mother's custody. We find nothing improper in the probation conditions imposed by the court. In sum, we find no arguable issues for review, pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436. The orders of the juvenile court are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, September 6, 2001

Division Two

**A096058 -- The People of the State of California v. The Superior Court of Sonoma County; Randall Allen Chiado, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. The petition is untimely. Kline, P.J.

**A096072 -- In re Archie Delaney, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A096075 -- In re Gary Eugene Kukes, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Four

**A094374 -- The People v. Benjamin Roshan Kanhai.**

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

**A094375 -- The People v. Victor Miranda**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, September 7, 2001

Division Two

**A095324 -- McGuire and Hester v. City of Antioch; William G. McCullough Co., R.P.I.**

The appeal is dismissed as moot, with costs awarded to the City. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

**A095294 -- Rocky H. v. Superior Court of the County of Napa; Napa County Department of Health and Human Services, R.P.I.**

The petition for an extraordinary writ is denied on the merits. (§ 366.26, subd. (1); Cal. Rules of Court, rule 39.1A(b)(2).) Our decision is final in this court immediately. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Monday, September 10, 2001

**A094352 -- The People v. James Earl Hines.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Stein, Acting P.J.

Division Two

**A091498 -- The People v. David Wayne Enoch.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A091487 -- The People v. David William Martinez.**

The judgment is affirmed, but the case remanded for correction of the error in the abstract of judgment noted above. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A091260 -- The People v. Sherman Clay Tamplen.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A092324 -- In re Shy Z., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Social Services v. William Z.**

The jurisdictional and dispositional orders are affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Monday, September 10, 2001 (continued)

Division Five

**A092998 -- El-Com Hardward, Inc., et al. v. Fireman's Fund Insurance Company.**

The summary judgment is reversed. On remand the superior court shall enter an order granting respondent's motion for summary adjudication as to appellants' cause of action for breach of the covenant of good faith and fair dealing and shall conduct further proceedings consistent with the views expressed herein. Costs on appeal to appellants. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Partial Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, September 10, 2001

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk; and court security officer N. Kamau.

- A095097      Los Angeles Unified School District, et al.,  
v.  
Superior Court of San Francisco County;  
State of California, et al.  
Cause called and argued by Judd L. Jordan, counsel for petitioners, and Scott Dunham, counsel for real parties in interest. Cause ordered submitted.
- A090712      Seddeigheh Emamhosseini,  
v.  
Ahmad Reza Rassai, et al.  
Cause called and argued by Thadd A. Blizzard, counsel for appellant, and Allin H. Pierce, counsel for respondents. Cause ordered submitted.
- A093676      Domiciana T. Dioquino,  
v.  
Carol Korade.  
Cause called and argued by Domiciana T. Dioquino, appellant in pro per, and Douglas Dang, counsel for respondent. Cause ordered submitted.
- A093448      Elba Borgen, et al.,  
v.  
Patricia Fado, et al.;  
Rebecca Graf, et al.  
Cause called and argued by Roger Borgen, counsel for appellants, and Maxwell S. Peltz, counsel for respondents. Cause ordered submitted.

A094890

State of California, et al.

v.

Superior Court of San Francisco County;

Gino Buchignani, et al.

Cause called. Matthew Kreeger, counsel for real party in interest, was present. Scott Dunham, counsel for real party in interest in A095097, represented to the Court that attorney John Daum, lead counsel for this proceeding and an attorney in the Los Angeles branch of his office, advised him via cell phone conversation that Mr. Daum did not receive, or something happened to, the oral argument notice and that is why he was not present for argument. Mr. Dunham, having no knowledge of this proceeding, was unable to argue in Mr. Daum's place. Cause ordered continued.

Court recessed until 1:30 p.m.



MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Monday, September 10, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer L. Thomas, Bailiff.

- A093779 Alta Kavanaugh,  
v.  
The West Sonoma County Union High School District, et al.  
Cause called and argued by Robert J. Henry, counsel for appellant, and James D. Allen, counsel for respondents. Cause ordered submitted.
- A089343 West Bay Builders, Inc.,  
v.  
City of Martinez.  
Cause called and argued by Jewell J. Hargleroad, counsel for appellant, and Jeffrey A. Walter, counsel for respondent. Cause ordered submitted.
- A093443 Timothy A. Jochner, et al,  
v.  
Torsten Jacobsen, et al.  
Cause called and argued by Paul L. Warner, counsel for appellants, and John H. Patton, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, September 12, 2001

Division One

**A093676 -- Domiciana T. Dioquino v. Carol Korade et al.**

The court did not abuse its discretion and properly advised appellant of the potential consequence of non-compliance. The dismissal is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A095247 -- The People v. Jill Suzette Harper.**

By the Court: On March 28, 2001, defendant was convicted by plea of nolo contendere. On May 29, 2001, defendant filed a notice of appeal. The notice of appeal does not indicate that the appeal is based on grounds (1) occurring after entry of plea which do not challenge its validity, or (2) involving a search or seizure issue, the validity of which was contested by a motion made pursuant to Penal Code section 1538.5. Accordingly, the appeal is inoperative. (Pen. Code, § 1237.5; Cal. Rules of Court, rule 31(d).) The appeal is dismissed. Stein, Acting P.J.

**A094196 -- In re Angel K., a Person Coming Under the Juvenile Court Law. San Mateo Human Services Agency v. Sandra W.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A091220 -- Gregory Parker, Trustee of The Stanford Farms Trust v. California Coastal Commission, California Coastal Commission v. Gregory Parker, in his individual capacity and as Trustee for the Stanford Farms Trust, et al.**

The order denying the motion to strike the second amended cross-complaint is affirmed. Costs are awarded to respondent. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A094620 -- Edward Schuler v. Sally Reed.**

Accordingly, the judgment must be affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Wednesday, September 12, 2001 (continued)

Division Two

**A092345 -- Pat Lombardo et al. v. Kurt D. Huysentruyt.**

By the Court: The petition for rehearing filed by respondent on August 30, 2001 is hereby denied. It is ordered that the published opinion filed herein on August 14, 2001 be modified in the following particulars: (See order.) This modification does not effect a change in the judgment. Kline, P.J. (Certified for Publication.)

Division Three

**A093284 -- The People v. Michael Phillip Jack.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A093834 -- The People v. Thomas Rivera.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Thursday, September 13, 2001

Division One

**A094633 -- In re John S., Jr. and Marle S., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Social Services v. John S.**

The record before us contains substantial evidence to support the trial court's finding that it is likely John and Marle S. will be adopted. The order terminating Father's parental rights is therefore affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A093814 -- In re Oscar C., a Person Coming Under the Juvenile Court Law. People v. Oscar C.**

The dispositional order is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A096141 -- Coca-Cola Enterprise, Inc. et al v. The Superior Court of San Francisco County; American International Specialty Lines Insurance Company, R.P.I.**

By the Court: The petition for writ of mandate is denied. This court does not accept fax filing of writ petitions. (See Internal Operating Practices and Procedures (IOPP 17), First Appellate District.) Kline, P.J.

Division Three

**A089252 -- Randeep Singh v. City of Berkeley.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, September 13, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, CA. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A090411      The People  
                 v.  
                 Rex Olisuru Ogunniyi  
Cause called and argued by William M. Balin, counsel for appellant and Linda Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A093066      Estate of Katherine Andros, Deceased.  
                 Wells Fargo Bank, etc.  
                 v.  
                 Athanasia Vlazakis  
Rose Resnick Lighthouse for the Blind and Visually Impaired, et al.  
Cause called and argued by George Vlazakis, counsel for appellant and Jennifer Hagedorn and Charles Wolff, counsel for respondents. Cause ordered submitted.
- A090886      James Singh  
A092087      v.  
                 MacArthur Metro  
Causes called and argued by Thomas Maxwell, counsel for appellant and Mark Allen Goldowitz, counsel for respondent. Causes ordered submitted.

Court recessed until 1:30 p.m.

The court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham and I. Santos, Deputy Clerks.

- A076586      In re The Marriage of Barry and Susann Margreth Bonds  
A075328      Barry Lamar Bonds  
                 v.  
                 Susann Margreth Bonds  
Causes called and argued by Paige Wickland, counsel for appellant and Sean Michael SeLegue, counsel for respondent. Causes ordered submitted.



Friday, September 14, 2001

Division One

**A088836 -- The People v. Antoine Gaines.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A095097 -- Los Angeles Unified School District v. The Superior Court of San Francisco County; State of California, R.P.I.**

The order to show cause, having served its purpose, is discharged. The petition for a writ of mandate is denied. The parties shall bear their own costs. Marchiano, J. I Concur: Stein, Acting P.J. (See concurring opinion by Swager, J.) (Not for Publication.)

Division Two

**A091230 -- The People v. Cecil Andrew Anderson.**

We affirm. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A091380 -- In re Harry B., a Person Coming Under the Juvenile Court Law. The People v. Harry B.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A096124 -- In re Felix Wong, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Five

**A091788 -- Gail Castillo, an Incompetent Person, etc., et al. v. Leroy Griffith Construction, Inc., et al.**

Given appellants lack of standing to appeal, the appeal is dismissed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, September 17, 2001

Division One

**A093756 -- Edward W. Beck et al. v. Paula Reddish-Zinnemann as Real Estate Commissioner, etc.**

The judgment is affirmed. Costs on appeal are awarded to the plaintiffs. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A093580 -- The People v. John David McClung.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)



MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Monday, September 17, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Ruvolo, J., and S. Graham, Deputy Clerk.

- A090429      In re Wells Fargo Cases  
Ernest M. Thayer, et al.  
v.  
Wells Fargo Bank  
Cause called and argued by Daniel U. Smith, counsel for plaintiffs and Daniel G. Lamb, counsel for defendant. Cause ordered submitted.
- A089732      Hardeep Sing Dosanjh  
v.  
Sardool Takhar, et al.  
Cause called and argued by Derek Backus, counsel for appellants and Lourdes Lopez, counsel for respondent. Cause ordered submitted.
- At this point in the proceedings, Justice Ruvolo left the bench and Justice Lambden joined the bench.
- A091187      Jeanette L. McNaughton  
v.  
United Airlines, Inc.  
Cause called and argued by Barbara Lawless, counsel for appellant and Brett Schuman, counsel for respondents. Cause ordered submitted.
- A092156      Harold Antonini  
v.  
Abdul Shaikh  
Cause called and argued by Richard J. Torre, counsel for appellant and Walter Schneider, counsel for respondent. Cause ordered submitted.
- A092156      Charles T. Black, et al.  
v.  
Financial Freedom Senior Funding Corp., et al.  
Cause called and argued by Dario DeGhetaldi, counsel for appellants and James Fleming and Michael Verna, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

The court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the first case would include himself and Justices Haerle and Lambden.

A093328 Elizabeth Swanson  
v.  
Liquid Sugars, Inc., et al.  
Alfred Saroni, Jr.  
Cause called and argued by Steven Kaufhold, counsel for appellant and Diane O'Malley, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Lambden left the bench.

A091316 Daniel Levin  
v.  
Janie Lee Ligon, et al.  
Cause called and argued by Paige Wickland, counsel for appellant and Bernard Wolf, counsel for respondent. Cause ordered submitted.

A089886 The People  
v.  
Guadalupe V. Torres  
Cause called and argued by James Bradley O'Connell, counsel for appellant and Bruce Ortega, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A093849 Michael A. Stein  
v.  
Joseph N. Attard  
Cause called and argued by Joseph Attard, appellant in propria persona and Brian Chase, counsel for respondent. Cause ordered submitted.

Monday, September 17, 2001 (continued)

Division Three

**A093343 -- Clifford Folke v. David Benedict et al.**

The judgment is affirmed. The Benedicts shall recover their costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A091288 -- The People v. Michael Joseph Lamie.**

**A094190 -- In re Michael Joseph Lamie, on Habeas Corpus.**

The judgment is affirmed and the matter is remanded to the trial court for determination of the proper amount, if any, of conduct credits. The petition for habeas corpus is denied. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Monday, September 17, 2001 (continued)

Division Five

**A094108 -- James H. Fisher v. California Department of Corrections.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.  
(Not for Publication.)

**A092669 -- The People v. Rafael J. Velasquez.**

The \$200 restitution fine that was imposed under section 1202.45 is stricken. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, September 18, 2001

Division One

**A094581 -- The People v. Jose Luis Contreras.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Stein, Acting P.J.

**A094864 -- The People v. Marcelino Lopez Gonzalez.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Stein, Acting P.J.

Division Two

**A093030 -- Sam W. Chappelle.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A091431 -- The People v. Joseph Healey.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A096143 -- In re Dwight McCullough, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, September 18, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P.J., Lambden, J., Ruvolo, J., and I. Santos, Deputy Clerk.

- A091636      The People,  
                  v.  
                  Joe Louis Lea.  
Cause called and argued by Valerie West (telephonically), counsel for appellant, and Eric Share, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A091291      The People,  
                  v.  
                  Antonio Hernandez.  
Cause called and argued by Ozro Childs (telephonically), counsel for appellant, and Frances Dogan, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A092081      Paramjit Singh,  
                  v.  
                  Vinod Kumar Sharma.  
Cause called and argued by Kerri Johnson, counsel for appellant, and John Schreiber, counsel for respondent. Submission deferred for 10 days pending filing of response by appellant to respondent's supplemental declaration in support of motion for sanctions.
- A092448      Trader Sports, Inc.,  
                  v.  
                  City of San Leandro.  
Cause called and argued by Jack Leavitt, counsel for appellant, and Andrea Saltzman, counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED.**

Tuesday, September 18, 2001 (continued)

Division Three

**A089052 -- Carol L. Price v. Dames & Moore et al.**

The judgment is reversed. Price shall recover her costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Certified for Publication.)

**A093265 -- In re Michael S., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Linda S.**

The orders of the juvenile court are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A095961 -- City and County of San Francisco v. The Superior Court of San Mateo County; Dillingham Construction N.A., Inc., R.P.I.**

Let a peremptory writ of mandate issue directing respondent superior court to vacate its August 16 order denying the City's motion to disqualify Judge Kopp and to enter a new and different order granting the motion. The temporary stay of further proceedings before Judge Kopp shall remain in effect until this decision becomes final as to this court. The City shall recover its costs herein. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A094489 -- Bonnie Harrison v. United Parcel Service, Inc.**

The purported appeal is dismissed. Reardon, Acting P.J. We Concur: Sepulveda, J. Kay, J. (Not for Publication.)

**A093656 -- Mark Martin Stack v. Guido Zanotti et al.**

The purported appeal is dismissed. Reardon, Acting P.J. We Concur: Sepulveda, J. Kay, J. (Not for Publication.)

Wednesday, September 19, 2001

Division One

**A094436 -- The People v. Joseph Morgan Jackson.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P. Marchiano, J. (Not for Publication.)

Division Two

**A089586 -- John D. Hourigan et al. v. San Francisco Newspaper Agency.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A093169 -- In re Lisa W., a Person Coming Under the Juvenile Court Law. Contra Costa County Employment and Human Services Department v. Sylvester W.**

The appeal is dismissed as moot. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A093480 -- In re Joseph R., a Person Coming Under the Juvenile Court Law. The People v. Joseph R.**

The CYA commitment order is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A090183 -- Shirley Stapp v. City of Concord et al.**

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)



Wednesday, September 19, 2001

Division Four

**A092641 -- Consumer Justice Foundation v. Archstone Communities Trust.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A093890 -- In re Humberto M., a Person Coming Under the Juvenile Court Law. The People v. Humberto M.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Wednesday, September 19, 2001

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J. and Kay, J; Channing Hoo, Deputy Clerk; CHP Officer Jason Keirse, Bailiff.

- A086835      Stuart S. London, M.D.  
A088269      v.  
                Medical Underwriters of California  
                Causes called. Andrew Pierce argued for appellant London. Tyler G. Draa argued for respondent. Causes submitted.
- A090771      James Jin et al.  
                v.  
                California State Automobile Association et al.  
                Cause called. Bradley Kass argued for appellants Jin et al. R. Scott Erlewine argued for respondents. Cause submitted.
- A094203      Simon Haviv  
                v.  
                Michael F. David  
                Cause called. D. Steve Harris argued for appellant David. Robert M. Levy argued for respondent. Cause submitted.
- A088961      People  
                v.  
                Maurice Gates  
                Cause called. J. Wilder Lee argued for appellant Gates. Dorian Jung argued for respondent. Cause submitted.
- A093295      Pometta Family Partners  
                v.  
                Susan Potgeter  
                Cause called. L. Randolph Skidmore argued for appellant Potgeter. Christopher Grimshaw argued for respondent. Cause submitted.
- A092896      Mayumi Jaycox et al.  
                v.  
                Hertz Corporation  
                Cause called. Robert Rusky argued for appellants Jaycox et al. Vincent W. Marsella argued for respondent. Cause submitted.

The Court recess at 11:15 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Wednesday, September 19, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J., and Kay, J.; Channing Hoo, Deputy Clerk; CHP Officer Tony Tam, Bailiff.

A087171

Ric Schiff et al.

v.

U.C. Regents et al.

Cause called. Daniel Smith argued for appellants Schiff et al. Jennifer King argued for respondents. Cause submitted.

The Court adjourned at 2:01 p.m.

Thursday, September 20, 2001

Division One

**A092740 -- In re Dranoel B., a Person Coming Under the Juvenile Court Law. The People v. Dranoel B.**

accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A093448 -- Elba Borgen et al. v. Patricia Faldo et al.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A092908 -- The People v. Michael E. Burton, Jr.**

The judgment and sentence are affirmed. Marchiano, J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A096026 -- Jerryal Jerome Culler, Sr. v. The Superior Court of Contra Costa County; The People, R.P.I**

The Court:\* No useful purpose would be served by issuing our alternative writ or hearing oral argument in this matter. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1242.) Therefore, we direct issuance of peremptory writ of mandate commanding the Contra Costa Superior Court to set aside the August 15, 2001 order denying Mr. Culler's petition for writ of habeas corpus (case No. 011162-5; underlying case No. 912998-2), and to assign the petition to a judge other than the Honorable Mary Ann O'Malley. In all other respects the petition filed herein is denied without prejudice. This opinion is final as to this Court immediately. (Not for Publication.)

\*Before Stein, Acting P.J. and Swager, J., Marchiano, J. having recused himself.

**A093779 -- Alta Kavanaugh v. West Sonoma County Union High School District et al.**

The judgment is reversed and the trial court is directed to deny respondent's petition for writ of mandate. Costs to appellants. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Certified for Publication.)

Thursday, September 20, 2001 (continued)

**A094311 -- Scott Williams v. Grand Parlor Native Sons Of The Golden West.**

We affirm the summary judgment in favor of respondent. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A092491 -- The People v. Ryisha Jonell Freeman.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A093938 -- The People v. Ralph Vincent Johns, Jr.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A092715 -- The People v. Tommy L. Walker.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Four

**A092008 -- The People v. Craig Richard Lichtle.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Thursday, September 20, 2001 (continued)

Division Five

**A094586 -- Sung Ae Choi v. The Superior Court of Contra Costa County; The People, R.P.I.**

The Court: It is ordered that the opinion filed herein on August 21, 2001, be modified as follows: (See order.) The petition for rehearing is denied. This modification does not effect a change in the judgment. Jones, P.J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

September 20, 2001

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J., Simons, J., and Mary P. Quilez, Deputy Clerk.

- A091113      Albert F. Gionfriddo  
                  v.  
                  Major League Baseball, et al.  
Cause called and argued by Ronald Stanley Katz and William H. Hebert, counsel for appellant, and by Jeffrey E. Faucette, counsel for respondents. Cause ordered submitted.
- A092225      Coscart, et al.  
                  v.  
                  Major League Baseball, et al.  
Cause called and argued by Ronald Stanley Katz and William H. Hebert, counsel for appellants, and Martin R. Glick, counsel for respondents. Cause ordered submitted.
- A0993519     Khanh Kim Luc  
                  v.  
                  Donald Chiu  
Cause called and argued by Robert J. Perkiss, counsel for appellant, and by Charles Gadsden Kinney, counsel for respondent by teleconference. Cause ordered submitted.
- A092657      Stephen Tessler, et al.  
                  v.  
                  California Department of Corrections, et al.  
Cause called and argued by Mark D. Johnson, counsel for appellants, and by Frank Moore, counsel for respondents. Cause ordered submitted.

A094248      Joseph Debro  
                  v.  
                  Oakland Raiders  
Cause called and argued by Joseph Debro, appearing in pro per, and by Kenneth G. Hausman, counsel for respondent. Cause ordered submitted.

A093125      John Allen v.  
                  Kevin McLaughlin, et al.  
Cause called and argued by Richard McConnell, counsel for appellants, and by William Flenniken, counsel for respondents. Cause ordered submitted.

A093409      Donald Joseph Flores, et al.  
                  v.  
                  Transamerica Homefirst, Inc.  
Cause called and argued by James H. Fleming, counsel for appellant, and by Richard P. Murray, counsel for respondents. Cause ordered submitted.

A091745      The People  
                  v.  
                  Dwayne Keyonn Swearington  
Cause called and argued by John F. McCabe, counsel for appellant and Linda M. Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A093192      Micah Davis  
                  v.  
                  Department of Motor Vehicles, et al.  
Cause called and argued by Nancy A. Beninati, counsel for appellant, and by Gail Dekreon, counsel for respondent. Cause ordered submitted.

A093006      Michael Goncalves  
                  v.  
                  California Department of Insurance  
Cause called and argued by Richard J. Davis, counsel for appellant, and by Victoria Wu, Deputy Attorney General, counsel for respondent. Cause ordered submitted.



A095583      Helen L.  
v.  
Superior Court  
Social Services Agency, et al.  
Cause called and argued by Margaret A. Pendergast, counsel for appellant, and by Jennifer Williams, Deputy City Counsel, counsel for real party in interest. Cause ordered submitted.

A094865      Johnny King  
v.  
Dieter Scholz  
Order to show cause called. Dieter Scholtz, appellant, and Joseph Ryan, counsel for appellant, appearing. Cause ordered submitted.

Court adjourned at 1:20 p.m.

Friday, September 21, 2001

Division One

**A093555 -- The People v. Charles Woodie Underhill.**

Since we find neither abuse of discretion nor due process violation, the judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A089343 -- West Bay Builders, Inc. v. City of Martinez; N.E. Carlson Construction, Inc., R.P.I.**

The judgment and order denying West Bay's motion for a new trial are affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

**A093961 -- In re Anthony M., a Person Coming Under the Juvenile Court Law. The People v. Anthony M.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A091033 -- The People v. Dean Edward Wilson, Jr.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A092429 -- The People v. Jerry Ray McCraney.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Friday, September 21, 2001 (continued)

Division Five

**A093669 -- Eric Alan Artman v. Department of Motor Vehicles.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A093694 -- Charles J. Berry v. Dylan E. Berry et al.**

The judgment dismissing the cause of action for cancellation of instrument is reversed. The judgment is otherwise affirmed. The parties shall bear their own costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A093019 -- The People v. Shawn Paul Hedlin.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A095583 -- Helen L. v. The Superior Court of San Francisco; San Francisco County Department of Human Services, R.P.I.**

The order to show cause is discharged, and the petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (1).) As the section 366.26 hearing is set for October 31, 2001, we order that our decision shall be final as to this court immediately. (Cal. Rules of Court, rule 24(a).) Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Monday, September 24, 2001

Division One

**A093901 -- In re Chazeric S., a Person Coming Under the Juvenile Court Law. The People v. Chazeric S.**

Appellant was represented by competent counsel throughout these proceedings, the CYA commitment was well within the court's discretion, and there are no meritorious issues to be argued. We affirm the order. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A096155 -- Coca-Cola Enterprises, Inc., et al. v. The Superior Court of San Francisco County; American International Specialty Lines Insurance Company, R.P.I.**

By the Court: The petition for writ of mandate is denied. Kline, P.J.

**A096187 -- Charles Johnson v. The Superior Court of Alameda County; People of the State of California, R.P.I.**

By the Court: On this court's own motion, petitioner's application for default judgment is deemed a petition for writ of mandate. Respondent superior court having complied with the directive of the order to show cause issued by this court on August 10, 2001, the petition for writ of mandate is dismissed as moot. The clerk of this court shall mail copies of the superior court's orders to petitioner. Kline, P.J.

**A096108 -- Stephen Gary Pegler v. The Superior Court of the Solano County; People of the State of California, R.P.I.**

By the Court: The petition for writ of prohibition/stay is denied. Kline, P.J.

Monday, September 24, 2001 (continued)

Division Three

**A093360 -- The People v. Shawn Louis Evans.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A091723 -- The People v. Sarah Elizabeth Pawson.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Five

**A093010 -- California Teachers Association et al. v. Mendocino Unified School District.**

**A093011 -- California Teachers Association et al.v. Mendocino Unified School District.**

The judgment is reversed. The trial court is ordered to prepare a new judgment denying the petition for a writ of mandate and the complaint for declaratory relief. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Publication.)

**A093646 -- The People v. Michael Eugene Hahs.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, September 25, 2001

Division One

**A096013 -- Gregory A. Bond et al. v. Larry Paul.**

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 8-28-01, the appeal is dismissed. Stein, Acting P.J.

**A088836 -- The People v. Antoine Gaines.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A092328 -- In re Terrence M., a Person Coming Under the Juvenile Court Law. The People v. Terrence M.**

The order adjudicating appellant a continued ward of the court is affirmed. The matter is remanded to the Juvenile Division of the Santa Clara County Superior Court to allow that court to exercise its discretion to determine the offense of receiving stolen property (§ 496, subd. (a)) either a felony or misdemeanor. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A094808 -- Francis Scarpulla, et al. v. George Roscoe, et al.**

**A096188 -- Francis Scarpulla, et al. v. George Roscoe, et al.**

By the Court: Appellants' motion captioned "unopposed motions to consolidate appeals in A094808 and A096188, and for extension of time for filing appellants' opening brief in consolidated appeals," filed with this court on September 27, 2001, is granted. The court will consider dismissing the first appeal, filed with this court on or about May 7, 2001 when it reviews the merits of the consolidated cases. Appellants' opening brief is due 60 days from the date of this order. Stein, Acting P.J.

**A090712 -- Seddeigheh Emamhosseini v. Ahmad Reza Rassai and Mojgan Ghanbaran.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Tuesday, September 25, 2001 (continued)

Division Two

**A089176 & A089746 -- The People v. West Bunnery, Jr., et al.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

**A092793 -- The People v. Charles James.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, September 25, 2001

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J. and Kay, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Tony Tam, Bailiff.

- A091861      Sierra West Bank  
                 v.  
                 Chak Wong  
Cause called. Patrick Heron argued for appellant Wong. Diane King argued for respondent. Cause submitted.
- A090825      Dorothy Nash et al.  
                 v.  
                 Edward MacDonald et al.  
Cause called. Elizabeth Bader argued for appellants Nash et al. Edward MacDonald argued on his own behalf. Marian M. Johnston argued for respondents Carrington et al. Cause submitted.
- A091018      Ford Motor Company  
                 v.  
                 Avis Rent-A-Car System, Inc.  
Cause called. H. Grant Law argued for appellant Ford Motor Co. James Heisey argued for respondent. Cause submitted.
- A091658      Peter Hoyle  
                 v.  
                 City of Ukiah  
Cause called. John Shields argued for appellant Hoyle. David Rapport argued for respondent. Cause submitted.
- At this point, the Court reconstitutes itself to include Reardon, Acting P.J., Sepulveda, J. and Stein, J.
- A090889      Willie Greene  
                 v.  
                 Dillingham Construction  
Cause called. Philip Kay argued for appellant Greene. Paul Avilla argued for respondent. Cause submitted.

The Court adjourned at 11:35 a.m.



Tuesday, September 25, 2001 (continued)

Division Five

**A093010 -- California Teachers Association et al. v. Mendocino Unified School District.**

**A093011 -- California Teachers Association et al.v. Mendocino Unified School District.**

The Court: The opinion filed September 24, 2001, is modified as follows:  
(See order.) Costs are awarded to the Mendocino Unified School District. Jones,  
P.J. (Certified for Publication.)

Wednesday, September 26, 2001

Division One

**A095998 -- Myra Ann G. v. The Superior Court of Contra Costa County; Contra Costa County Children and Family Services Department, et al. R.P.I.**

The petition for extraordinary writs is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4t 888, 894; *Bay Development Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for October 30, 2001. Therefore, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

**A086708 -- Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissioners**

**A087959 -- City of San Leandro et al. v. Board of Port Commissioners.**

**A089660 -- City of Alameda et al. v. Board of Port Commissioners.**

Order Modifying opinion and denying rehearing. The Court: It is ordered that the opinion filed on August 30, 2001, be modified as follows: (See order.) This modification clarifies but does not effect a change in the judgment. The petition for rehearing is denied. Kline, P.J. (Certified for Publication.)

**A092917 -- In re Tara J., a Person Coming Under the Juvenile Court Law. The People v. Tara J.**

The case is remanded to the Alameda County juvenile court with directions to issue a new judgment that specifically designates appellant's two assault offenses as either felonies or misdemeanors, and to do so after reference to the transcript of the Solano County jurisdictional hearing. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Wednesday, September 26, 2001, (continued)

Division Three

**A093745 -- The People v. Michael Alan De LA Cruz.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A092036 -- The People v. Mario Anthony Gallardo.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A092742 -- The People v. Daniel T.**

The jurisdictional order is reversed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, September 26, 2001

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness, P.J., Corrigan, J., Parrilli, J. and I. Calanoc, Deputy Clerk.

- A093272      Steven Ray Perridon,  
                         v.  
                         John Kofoed, et al.  
Cause called and argued by appellant Steven Ray Perridon, in pro per, via teleconferencing; and Tyler Draa, counsel for respondent. Cause ordered submitted.
- A091231      The People,  
                         v.  
                         Jimmy Lee Carter.  
Cause called and argued by John James, counsel for appellant, and Deputy Attorney General Catherine McBrien, counsel for respondent, via teleconference. Cause ordered submitted.
- A092330      The People,  
                         v.  
                         Eli F.  
Cause called and argued by Eric Borgerson, counsel for appellant, and Deputy Attorney John Vance, counsel for respondent. Cause ordered submitted.
- A089698      Edwin May,  
                         v.  
                         State Farm Fire and Casualty Company.  
Cause called and argued by Ron Leaf, counsel for appellant, and Pamela Levin, counsel for respondent. Cause ordered submitted.
- A089535      George Plavjian,  
                         v.  
                         Jack Qura, et al.  
Cause called and argued by Raymond Bolanos, counsel for appellant, and Leo La

Rocca, counsel for respondent. Cause ordered submitted.

A090298

David Savage, et al.,

v.

Tosco Corporation.

Cause called and argued by Scott Cole, counsel for appellant, and Steven Bauer, counsel for respondent. Cause ordered submitted.

COURT RECESSED

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, September 26, 2001

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness, P.J., Corrigan, J., Parrilli, J. and I. Calanoc, Deputy Clerk.

A092699      In re EDWARD RAMIREZ on  
Habeas Corpus.

Cause called and argued by Steve Defillippis, counsel for appellant, and Deputy Attorney General Francis Grunder, counsel for respondent. Cause ordered submitted.

A091991      Nancy Strogoff,  
v.  
Kevin Hiler.

There was no appearance by appellant pro per Nancy Strogoff. Respondent was heard by the court. Matter deemed submitted.

A093675      Connie Payne, et al.,  
v.  
City of Oakland, et al.;  
P&C Pacific Bakeries, et al.

Cause called and argued by Kim Robinson, counsel for appellant, and Harold Smith, counsel for respondent. Cause ordered submitted.

A089933      Stamm Theatres, Inc., et al.  
A090372      v.

Hartford Casualty Insurance Company, et al.

Cause called and argued by William Reeves, counsel for appellants, and George Rudloff, counsel for respondents. Cause ordered submitted.

A093919      Pajaro Valley Community Health Trust,  
v.  
Community Healty Systems, Inc. et al.

Cause called and argued by Solomon Cera, counsel for appellants, and Thomas Peterson, counsel for respondent. Cause ordered submitted.

A089572

Allan R. Carpenter, et al.,

v.

Dale E. Fredericks, et al.

Cause called and argued by Rhonda Smiley, counsel for appellants, and Dale Fredericks, counsel for respondents. Cause ordered submitted.

COURT ADJOURNED

Wednesday, September 26, 2001 (continued)

Division Four

**A086570 -- The People v. Khyle Armando Briscoe.**

The amended abstract of judgment is ordered corrected to reflect a six-year term for first degree robbery and to reflect that the sentences for robbery and burglary are to run concurrently, with each sentence stayed pursuant to section 654. The abstract is also ordered corrected to delete the \$10,000 restitution fine imposed pursuant to section 1202.45. The corrected abstract shall be sent to the Director of the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Certified for Partial Publication.)

**A088961 -- The People v. Maurice Laprele Gates.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A090771 -- James Jin et al. v. Lunchstop, Inc.**

The judgment is affirmed. The trial court is directed to award Lunchstop reasonable attorney fees and costs on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A093854 -- Bruce Johnson v. Governing Board of the Fortuna Union High School District.**

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)



Wednesday, September 26, 2001 (continued)

Division Five

**A095245 -- Sharon Rogers v. The Superior Court of Contra Costa County; The People, R.P.I.**

Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order denying petitioner's motion for summary judgment, and thereafter enter a new order granting the motion, consistent with the views expressed in this opinion. This decision shall be final as to this court 10 days from the date of filing. "[t]o prevent any further delay of the proceedings below." (*PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680, 1683; see Cal. Rules of Court, rule 24(d).) The parties shall bear their own costs. (Cal. Rules of Court, rule 56.4.) Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, September 27, 2001

Division One

**A095096 -- The People v. Marion Thomas Fleming.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A094950 -- The People v. Chris Matthew Jackson.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093443 -- Timothy A. Jochner et al. v. Torsten Jacobsen et al.**

We reverse the summary judgment (as amended to incorporate dismissal with prejudice of the outstanding two causes of action) because the record has raised a triable issue of material fact regarding the nature of the sellers' efforts to perform their good faith contractual duties. Appellants are entitled to costs on appeal. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A084514 -- Frank M. Hampton v. Workers' Compensation Appeals Board and General Motors Corporation.**

The Board erred in rejecting the applicant's specific and cumulative injury claims. The decision is annulled, and the matter is remanded to the Appeals Board for determination of the merits of the claims. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A096241 -- In re David K. Jackson, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A096253 -- San Mateo County Transit District v. The Superior Court of San Mateo County; Tanforan Park Shopping Center LLC et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

Thursday, September 27, 2001 (continued)

Division Three

**A091560 -- Clifford Herbstman et al. v. Manuela Freeman et al.**

Judgments on the complaint and counter-complaint are affirmed. Herbstman to bear costs of the appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A088508 & A088889 -- Charles Hicks et al. v. John Crane, Inc.**

The judgment and orders appealed from are affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A093137 -- City of Oakland v. Deloris Allen.**

Accordingly, the judgment and associated orders are presumed to be correct, and are affirmed. Respondent shall recover its costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A093272 -- Steven Ray Perridon v. John Kofoed et al.**

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A093610 -- In re Tylisha S., a Person Coming Under the Juvenile Court Law. The People v. Tylisha S.**

The juvenile court's order is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A091488 -- The People v. Saul Vasquez.**

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, September 27, 2001 (continued)

Division Four

**A092307 -- The People v. Gilberto Castillo.**

The recommitment order is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A087983 -- Dale Haffeman and Jane Haffeman v. The Department of Developmental Services.**

The appeal is dismissed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A091658 -- Peter Hoyle v. City of Ukiah et al.**

The order denying appellant's petition for writ of administrative mandamus is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A091590 -- The People v. Robert Charles Mills.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A093817 -- In re Madison A. et al., a Persons Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Beth H.**

The order terminating parental rights is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A093192 -- Micah Robert Davis v. Department of Motor Vehicles.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, September 28, 2001

Division Two

**A093175 -- In re Srna M., a Person Coming Under the Juvenile Court Law. San Francisco Department of Social Services v. Goyko L.**

Appellant's three appeals, taken together, comprise the three points on an asymptotic line approaching frivolousness. We caution appellant and his counsel, in pursuing further appeals in this matter, to review the standards outlined by *In re Marriage of Flaherty* (1982) 31 Cal.3d 637. The October 12, 2000 restraining order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A094470 -- David K. Marble. v. Department of Health Services, et al.**

The judgment is reversed insofar as it awards respondent Marble his costs and attorney fees. In all other respects, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A096120 -- The Regents of the University of California. v. The Superior Court of San Francisco County; Michael Escamilla, R.P.I.**

By the Court: The petition for writ of mandate is denied. Kline, P.J. (Not for Publication.)

Division Three

**A091231 -- The People v. Jimmy Lee Carter.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A089572 -- Allan R. Carpenter et al. v. Dale E. Fredericks et al.**

The orders are affirmed. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Friday, September 28, 2001 (continued)

**A092330 -- In re Eli F., a Person Coming Under the Juvenile Court Law. The People v. Eli F.**

The dispositional order of the juvenile court is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A089698 -- Edwin May v. State Farm Fire and Casualty Company.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A093675 -- Connie Payne et al. v. City of Oakland et al.; Joseph M. Hurwich et al., R.P.I.**

The judgment is affirmed. Appellants to bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A089535 -- George Plavjian v. Jack Qura et al.**

The judgment and orders are affirmed. Defendants Jack and Atallah Qura are awarded costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A095721 -- Laura S. v. The Superior court of Marin County; Marin County Department of Social Services et al. R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const. art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for November 6, 2001, our decision is immediately final as to this court. (Rule 24(d).) Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A090298 -- David Savage et al. v. Tosco Corporation.**

The order of dismissal with prejudice is affirmed. Plaintiffs shall pay Tosco's costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Friday, September 28, 2001 (continued)

Division Four

**A092462 -- The People v. Kelvin Lamontte Chapman.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A092896 -- Mayumi Jaycox and Mika Miyayama v. The Hertz Corporation.**

The judgment is affirmed. Costs are awarded to Hertz Corporation. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A092546 -- In re J.S., a Person Coming Under the Juvenile Court Law. The People v. J.S.**

The order of commitment to CYA is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A087171 -- Ric Schiff et al. v. Michael Prados.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)